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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,267	03/26/2004	Robert G. Bainbridge	60044	1635

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HARSHAW RESEARCH INCORPORATED  
P O BOX 418  
OTTAWA, KS 66067

EXAMINER

WONG, STEVEN B

ART UNIT PAPER NUMBER

3711

DATE MAILED: 02/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/811,267

Applicant(s)

BAINBRIDGE ET AL. *CA*

Examiner

Steven Wong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-20 is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6-9 is/are rejected.
- 7) ☒ Claim(s) 4 and 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>mar 26 2004</u> . | 6) <input type="checkbox"/> Other: ____  |

***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: element 36 (page 5). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3, 7 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Hovey (6,083,121). Regarding claim 1, Hovey discloses a golf tee construction (Figures 2 and 3) including an outer sleeve (32), an inner sleeve (60) and a golf tee (90) that is received by the inner sleeve. Note Figure 3 showing the inner sleeve open end (72) and closed end (64). Note Figures 3 and 9 showing the outer sleeve open end and closed end (240). Note also Figure 3

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showing a first fastener structure (48, 50) extending along the outer sleeve and a second complementary fastener structure (74, 80) along an extent of the inner sleeve.

Regarding claim 3, note bevelled end (50) of the outer sleeve which would cause the inner sleeve to resist upward movement.

Regarding claims 7 and 8, note column 1, lines 63-65 stating that the inner sleeve is made from a flexible urethane material. The urethane material is seen as being inherently resilient and elastomeric.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bressie (4,660,837). Regarding claim 1, Bressie discloses a golfing apparatus comprising a tubular outer sleeve (12) having a open top (15) and a closed bottom (16), a tubular inner sleeve (24) slidable within the outer sleeve and having an open top (36) for receiving a golf tee therein and first and second fastener structures (28, 50). However, Bressie lacks the teaching for the inner sleeve to be closed at one end.

It would have been obvious to one of ordinary skill in the art to delete the through hole (48) in the inner sleeve in order to provide a stronger inner sleeve by forming it as a continuous unitary member. The through holes in the outer sleeve would still be inherently capable of venting air in the inner chamber to the outside.

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Regarding claim 2, the first and second fasteners of Bressie are formed as a plurality of notches with a spring tab that selectably engages one of the notches.

Regarding claim 3, the shape of the notches would obviously resist upward movement of the inner sleeve relative to the outer sleeve.

Regarding claim 9, note Figures 1 and 2 of Bressie showing a generally disc-shaped collar (14) mounted to the outer sleeve at the open top end.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hovey (6,083,121) in view of Brennan (3,516,664). Hovey lacks the teaching for the bottom end of the outer sleeve to comprise a pointed tip.

Brennan discloses a golf tee holder (Figure 3) comprising a tubular outer sleeve (15) having an open end and a closed end and an inner sleeve (7) having an open end and a closed end. The inner sleeve receives a golf tee. Brennan also provides the outer sleeve with a pointed tip (17) to facilitate insertion of the device into the turf.

It would have been obvious to one of ordinary skill in the art to provide outer sleeve of the golf tee of Hovey with a pointed tip as taught by Brennan in order to allow the tee to be used in the ground and facilitate insertion thereof.

#### ***Allowable Subject Matter***

7. Claims 4, 5 and 10-20 appear to read over the prior art of record.

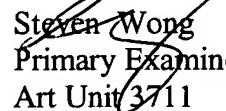
#### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Wong whose telephone number is 571-272-4416. The examiner can normally be reached on Monday through Friday 7am-3:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Steven Wong  
Primary Examiner  
Art Unit 3711

SBW  
February 17, 2005